

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding the
Implementation of the Suspension of Direct
Access Pursuant to Assembly Bill 1X and
Decision 01-09-060.

Rulemaking 02-01-011
(Filed January 9, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING EXPEDITED
SCHEDULE FOR FILING OF ANY APPLICATION FOR REHEARING
OF DECISION 04-11-014 AND RESPONSES THERETO**

This ruling sets forth the schedule for the filing of any application for rehearing of Decision (D.) 04-11-014, and any responses thereto. D.04-11-014 was adopted by the Commission at the meeting of November 19, 2004, and mailed to the parties on the same day. In that decision, the Commission resolved the limited rehearing granted by D.03-08-076 and related matters regarding the limited municipal departing load (MDL) cost responsibility surcharge (CRS) exception that the Commission granted in D.03-07-028 to new MDL. The Commission also resolved a related issue left unresolved in D.03-07-028, having to do with the identification of the specific publicly-owned utilities (POU) that would be subject to any exceptions from the CRS. In addition, the Commission addressed issues raised by the California Municipal Utilities Association's Petition for Modification of D.03-07-028, which was filed on February 17, 2004.

The decision construes, applies, implements, and interprets certain provisions of Assembly Bill 1 of the Legislature's First Extraordinary Session of 2001-2002 (Stats. 2001, Ch. 4) (AB1X). Accordingly, the decision is subject to Senate Bill 31 of the First Extraordinary Session of 2001-2002 (Stats. 2001, Ch. 9), which amended Public Utilities Code Section 1731, and added Public Utilities

Code Section 1768. Section 1731(c) requires that as a prerequisite for filing a cause of action “in any court,” an application for rehearing of a Commission decision construing, applying, or implementing the provisions of AB1X must be filed within ten days after the date of issuance of the decision. (Pub. Util. Code, § 1731, subd. (c).) Accordingly, applications for rehearing of D.04-11-014 are due ten days after the issuance of this decision.¹ Applications for rehearing of this decision must therefore be filed by November 29, 2004.

Section 1731(c) also requires the Commission to “issue its decision and order on rehearing within 20 days after the filing of that application.” In order to issue a decision or order on rehearing of D.04-11-014 within the applicable timeframe, the Commission will need to take up consideration of any applications for rehearing at its regularly scheduled meeting on December 16, 2004.

Pursuant to Rule 86.2 of the Commission’s Rules of Practice and Procedure, a response to an application for rehearing may be filed no later than 15 days after the day the application for rehearing is filed. Consequently, under the expedited schedule for the filing of applications for rehearing, responses would not be due until December 14, 2004, only two days before the December 16, 2004 Commission meeting. Therefore, so that the Commission may have sufficient time to consider responses to any applications for rehearing that may be filed, the time for filing responses must be shortened. Although the Commission is not obligated to withhold a decision on an application for rehearing to allow time for

¹ In the decision, the Commission specifically noted the applicability of § 1731(c), and in particular the 10-day time for filing applications for rehearing.

a response to be filed,² the time for filing a response to any application for rehearing shall be shortened to December 7, 2004. Accordingly, any party planning to file a response to any application for rehearing in this matter shall file and serve the response on or before December 7, 2004. Any response shall be served by electronic mail on those parties on the service list who have provided an e-mail address, and by first class mail or other expeditious mode of delivery to those who have not provided an e-mail address. In addition, any responses shall also be electronically served on the following Commission staff: Mary McKenzie (mfm@cpuc.ca.gov).

Therefore, **IT IS RULED** that:

1. Any party filing an application for rehearing of Decision (D.) 04-11-014 shall file the application on or before November 29, 2004, and shall serve the application in the same manner as specified for responses.
2. The time for filing a response to any applications for rehearing of D.04-11-014 shall be shortened. Any party filing responses to such applications for rehearing shall file the responses on or before December 7, 2004, and shall serve the responses in the manner specified above.

Dated November 19, 2004, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer
Administrative Law Judge

² See Rule 86.2 of the Commission's Rules of Practice and Procedure.

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Expedited Schedule for Filing of any Application for Rehearing of Decision 04-11-014 and Responses Thereto on all parties of record in this proceeding or their attorneys of record.

Dated November 19, 2004, at San Francisco, California.

/s/ KRIS KELLER

Kris Keller

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.